

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Z.B., *et al.*,

Plaintiffs,

v.

DELTA AIR LINES, INC., *et al.*,

Defendants.

Case No. 2:24-cv-06190-FLA (DFMx)

**ORDER DENYING DEFENDANT
BRIAN PATRICK DURNING'S
MOTION TO STRIKE PLAINTIFF'S
MOTION TO REMAND [DKT. 31]
AND VACATING HEARING ON
PLAINTIFF'S MOTION TO
REMAND ACTION [DKT. 14]**

ORDER


On September 4, 2024, *pro se* Defendant Brian Patrick Durning (“Durning”) filed a Motion to Strike Plaintiffs’ Motion to Remand (the “Motion to Strike,” Dkt. 31). Durning requests the court strike Plaintiff’s Motion to Remand Action to State Court (“Motion to Remand,” Dkt. 14), on the grounds that Plaintiff’s failure to serve the Motion to Remand on Durning violated Fed. R. Civ. P. 5(b) (“Rule 5(b)"). Dkt. 31 at 1–2.

As Durning had not appeared in the action when the Motion to Remand was filed, Plaintiffs were not required to serve the Motion to Remand on Durning under Fed. R. Civ. P. 5(a)(2). The court, therefore, DENIES the Motion to Strike (Dkt. 31). Nevertheless, as Durning first appeared in this action on August 19, 2024, and has not had a reasonable opportunity to respond to the Motion to Remand, the court ORDERS as follows:

1. The September 13, 2024 hearing on the Motion to Remand is VACATED.
2. Durning’s deadline to file an opposition to the Motion to Remand shall be October 4, 2024.
3. Plaintiffs’ deadline to file a reply in response to any opposition filed by Durning shall be October 18, 2024.
4. The Motion to Remand shall be taken under submission as of October 18, 2024. *See* Fed. R. Civ. P. 78(b); Local Rule 7-15. The court will reset the Motion to Remand for hearing if the court deems a hearing necessary or appropriate.

IT IS SO ORDERED.

Dated: September 6, 2024


FERNANDO L. AENLLE-ROCHA
United States District Judge